

## REMARKS

In the Office Action mailed July 25, 2006, the Examiner noted that claims 1-24 and 26 were pending, and rejected claims 1-24 and 26. Claims 1, 13-15, 19-24 have been amended, claim 14 and 25 canceled, and new claims 27 and 28 have been added, and, thus, in view of the forgoing claims 1-13, 15-24 and 26-28 remain pending for reconsideration which is requested. No new matter has been added. The Examiner's rejections are traversed below.

In the Action the Examiner rejected claims 13 and 14 under 35 USC 101. These claims have been amended in view of the Examiner comments.

Page 3 of the Office Action reject all claims under 35 U.S.C. § 103 over Kodialam and Auerbach. The Examiner acknowledged that Kodialam is deficient as to the features of the claims and looked to Auerbach to cure the deficiency. The claimed invention determines the cost used for routing in the multicast distribution not only on the number of hops and the delay, but also based on the stream rate and a reference rate (see claims 1, 13, 19-24, 27 and 28 and application pages 13-15). Kodialam and particularly Auerbach do not teach or suggest such a cost determination. It is submitted that the claims distinguish over the prior art for this reason and withdrawal of the rejection is requested.

In addition, the cost is determined by a predetermined value set by a multicast manager and coefficients used to convert delay to number of hops (see claims 1, 13, 19-24, 27 and 28 and application pages 13-15). Kodialam and particularly Auerbach do not teach or suggest such additional cost determination factors. It is submitted that the claims distinguish over the prior art for this additional reason and withdrawal of the rejection is requested.

It is submitted that the independent claims distinguishes over the prior art and withdrawal of the rejection is requested.

The dependent claims depend from the above-discussed independent claims and are patentable over the prior art for the reasons discussed above. The dependent claims also recite additional features not taught or suggested by the prior art. For example, the prior art does not teach or suggest: costs between all nodes and a particular receiver node are minimized (see claim 3); dividing the nodes into groups and determining the costs between groups (see claim 4); restricting the cost calculation based on a range (see claim 6); recalculating the network tree when the network changes as indicated by certain packets (see claim 9); and a substitute routing is determined based on an anticipated failure (see claim 11). The Examiner is

specifically requested to point out where these features are found in the prior art. It is submitted that the dependent claims are independently patentable over the prior art.

It is submitted that the claims satisfy the requirements of 35 U.S.C. 101. It is further submitted that the claims are not taught, disclosed or suggested by the prior art. The claims are therefore in a condition suitable for allowance. An early Notice of Allowance is requested.

If any further fees, other than and except for the issue fee, are necessary with respect to this paper, the U.S.P.T.O. is requested to obtain the same from deposit account number 19-3935.

Respectfully submitted,

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